

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JESSE MCKINLEY CARTER, Jr.,</b>	:	<b>CIVIL NO. 3:12-CV-1955</b>
<b>Plaintiff</b>	:	
	:	<b>(Judge Munley)</b>
<b>v.</b>	:	
	:	
<b>WARDEN J.E. THOMAS,</b>	:	
<b>LEWISBURG U.S.P., <i>et al.</i>,</b>	:	
	:	
<b>Defendants</b>	:	

.....

**ORDER**

**AND NOW**, to wit, this 23<sup>rd</sup> day of September 2014, upon consideration of plaintiff's motion (Doc. 43) to dismiss and/or for summary judgment, and in accordance with the court's memorandum of the same date, it is hereby **ORDERED** that:

1. Defendants' motion (Doc. 43) to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) is GRANTED and plaintiff's complaint is dismissed in its entirety.
2. Alternatively, defendants' motion (Doc. 43) for summary judgment is GRANTED based on plaintiff's failure to exhaust administrative remedies.
3. The Clerk of Court is directed to ENTER judgment in favor of defendants and against plaintiff.
4. The Clerk of Court is directed to CLOSE this case.
5. Any appeal from this order is DEEMED frivolous and not in good faith. See 28 U.S.C. § 1915(a)(3).

**BY THE COURT:**

**s/James M. Munley  
JUDGE JAMES M. MUNLEY  
United States District Court**